IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1315 OF 2004

State of Maharashtra ...Applicant

Versus

Suresh G.Motwani ...Respondent

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Mr.S.R.Shinde, A.P.P. for Applicant.

Mr.K.J.Reddy for Respondent No.1.

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CORAM: A.M.KHANWILKAR, J.

OCTOBER 21, 2004.

P.C.

1. Heard Counsel for the parties. By this application, the State of Maharashtra prays that the bail granted in favour of the Respondent be cancelled on the ground that the Respondent has failed to comply with condition of deposit of amount of Rs.50,00,000/- (Rupees Fifty Lakhs) per month, as was assured before this Court. In response, the Respondent submits that the Respondent was regularly depositing requisite

amount with the Economic Offences Wing up to September 2003, but since the said agency did not, in turn, disburse the amount to the Depositors/Investors, coupled with the fact that there was injunction against the agency from dealing with the said amounts, obtained at the instance of Central Bank, the Respondent thought it appropriate to pay the amount to the respective creditors/depositors and in the process, the Respondent has directly paid amounts to the respective depositors/investors since October 2003 to the extent of Rs.1315 lakhs, which amount is far in excess of requirement to deposit at the rate of Rs.50,00,000/- (Rupees Fifty Lakhs) per month.

2. It is further argued on behalf of the Respondent that there is no prohibition in the Maharashtra Protection of Interests of Depositors (In Financial Establishments) Act, 1999 in respect of payment to be made to the depositors/investors during the pendency of any proceedings. Learned A.P.P. fairly accepts this position. The only argument canvassed on behalf of the Applicant/State is that the Respondent was required to deposit the

amount with the Economic Offences Wing, so that, the said amount can be made over to the competent authority for disbursement in accordance with Section 5 of the Act of 1999. This submission clearly overlooks that there is already injunction operating against the Economic Offences Wing from dealing with the amounts already deposited by the Respondent. In other words, the Economic Offences Wing was rendered incapable in dealing with the amounts deposited by the Respondent. In such a situation, payments made by the Respondent directly to the creditors/investors, which amount exceeds sum of Rs.50,00,000/- (Rupees Fifty Lakhs) per month in terms of assurance given to this Court and the payment so made is not in dispute, the question of cancelling the bail already granted to the Respondent on the ground that the Respondent has not deposited the amount in terms of the assurance, is untenable.

3. To my mind, while dismissing this Application, the appropriate course, is to direct the Respondent to submit statement of accounts in respect of the payments already made and to be made

hereafter to respective depositors/investors in due course to the Economic Offences Wing by the first week of every month reflecting the position of the statement of accounts of the previous month.

4. It is made clear that the payments to be made in future by the Respondents directly to the depositors/investors, in any case, shall not be less than Rs.50,00,000/- (Rupees Fifty lakhs) in every month till further orders to be passed by this Court.

5. Application disposed of accordingly.

A.M.KHANWILKAR, J.